

Neogen 4.1-51
Appl. No. 10/630,167
Amdt. Dated: January 16, 2007
Reply to Office Action of October 16, 2006

REMARKS

Claims 1 and 4 to 10 are pending. Claims 2, 3 and 11 have been cancelled. No claims are allowed. Claim 1 has been amended to more clearly define the invention as set forth in the specification and drawings. In the invention, the various parts, except the vacuum pump, are disposable. Further, the structure of the device with the first tube 5 and adjacent second tube 6 and container 1 with headspace 10 is specified.

Claims 1, 2 and 11 were rejected under 35 USC 102(b) as being anticipated by Pautz (DE 19817715). The device of this patent is shown in the Figure. The gas supply 2 passes through filters 4 and 11 at both ends of the cell body 1. This patent describes a much different device than is now claimed, since in Applicant's device, the first tube 5 leading to the media 3 in the container 1 is open to the atmosphere, in use. Reconsideration of this rejection is requested.

Claims 1 to 11 were rejected over Bradley (U.S. Patent No. 6,550,347) in view of Pautz (DE 19817715) which has been previously discussed. Bradley describes a system which is not disposable. As shown in Figure 1, there is a prefilter 28 and a hydrophobic filter 24 in

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this system. There is a hydrophilic filter 36 which allows the base section 16 to drain entrapment fluid 44. Figure 3 shows a simplified device which has a hydrophobic filter 24 as in Figure 1. The purpose of these filters is to contain entrapment fluid 44 when bubbles 50 are present. One skilled in the art would not be able to construct Applicant's device from this combination of references, since there is no internal filter, like filter 24 of Bradley, in Applicant's container 1. The prior art devices are unnecessarily expensive and require maintenance of the internal filters. Applicant's device does not require a need for this type of construction and is disposable. Reconsideration of this rejection is requested.

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It is now believed that Claims 1 and 4 to 10 are in condition for allowance. Notice of Allowance is requested.

Respectfully,



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